

REMARKS

In response to the Office Action mailed May 8, 2008, Applicants amended claims 1, 2, 27, and 53. Claims 28-49 were previously cancelled. Claims 1-27 and 50-53 are presented for examination.

Claims 1-27 and 50-53 were rejected under 35 U.S.C. § 112 first paragraph as failing to comply with the written description requirement and under 35 U.S.C. § 112 second paragraph as being indefinite. Although Applicants do not concede that the claims contained subject matter that was inadequately described in the specification nor that metes and bounds of those claims were insufficiently clear, claims 1, 27, and 53 have been amended. In view of the amendments to these claims, Applicants request reconsideration and withdrawal of the rejections of claims 1-27 and 50-53 under 35 U.S.C. § 112 first paragraph and second paragraph.

Claims 1-5, 7-13, 16-20, 25, 27, and 53 were rejected under 35 U.S.C. § 102(b) as being anticipated by Miller et al. (US Patent No. 5,933,927). Claims 1-5, 7-13, 16-20, 25, 27, and 53 cover methods of making a touch fastener having a non-planar topography. The methods include thermoforming a sheet form base having an upper face, a lower face, and a plurality of male fastener elements, each having a stem molded integrally with an extending from a portion of the upper face of the sheet form base. As amended, the methods of claims 1-5, 7-13, 16-20, 25, and 27 further include subjecting the lower face of the sheet form base to a first temperature and subjecting the upper face to a second temperature less than the first temperature. The method of amended claim 53 includes exposing the lower face of the sheet form base to a first temperature of between about 200 °F and about 600 °F and exposing the upper face of the sheet form base to a second temperature less than the first temperature. Miller fails to disclose at least these features of claims 1-5, 7-13, 16-20, 25, 27, and 53.

As shown in Miller's Figs. 1 and 2 reproduced below, Miller discloses feeding a stream 30 of a thermoplastic resin into an extruder 32 from which a heated resin is fed through a die 34 to a rotating cylindrical mold 36. (See, e.g., Miller, col. 5, lines 46-50). The solidified resin is stripped from Miller's mold 36 through the use of a stripper roll 44. The solidified resin is a precursor web 42 that includes an array of upstanding stems 48 and protrusions integrally formed

with a backing layer 46. (See, e.g., Miller, col. 5, lines 64-67). Miller further discloses that the precursor web 42 can be fed through a gap in the nip between two calendar rolls, 52A and 52B. (See, e.g., *id.*, col. 6, lines 5-8).

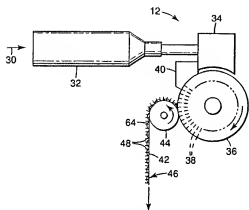


Fig. 1

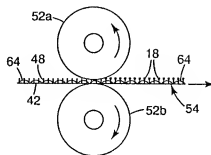


Fig. 2

Miller's roll 52A is heated and positioned to contact predetermined portions of the distal end of the stems 48. (See, e.g., *id.*, col. 6, lines 5-8, 10-13). However, as noted in Applicants' specification, "[t]hermoforming is a method of manufacturing plastic parts by preheating a flat piece of plastic and then bringing it into contact with a mold to cause the plastic to take the shape of the mold." (US 2005/0161851, ¶[0068], emphasis added). As Applicants further note, such thermoforming "offers close tolerances, tight specifications, and sharp detail." (*Id.*). Thus, contrary to the Examiner's contention, the deformation of the distal ends of Miller's stems through the use of a heated roll 52A cannot properly be considered to be a thermoforming method. Moreover, even if Miller's heated roll 52A could properly be considered a thermoforming method, which Applicants do not concede, Miller fails to disclose subjecting the lower face of the sheet form base to a first temperature and the upper face of the sheet form base to a second temperature, much less that the second temperature is less than the first temperature, as recited in claims 1-5, 7-13, 16-20, 25, 27. Nor does Miller disclose exposing the lower face of the sheet form base to a first temperature of between about 200 °F and about 600 °F and exposing the upper face of the sheet form base to a second temperature less than the first temperature, as recited in claim 53.

With respect to the features of claim 5, the Examiner has cited Miller's Figs. 1 and 2 along with Miller's citation to various patents. (See, e.g., Office Action, page 4). However, Miller's Figs. 1 and 2 fail to disclose or make obvious a buffer region, much less continuously introducing a sheet form base into such a buffer region. Moreover, the Examiner has not shown this feature to be present in any portion of the patents cited by Miller. This is not a trivial distinction. For example, as noted in Applicants' specification, continuously providing a sheet form base to a buffer region can compensate for the time required to thermoform the sheet form base, thus allowing the thermoforming of the sheet form base to be repeated in a continuous manner. (See, e.g., US Patent Application Publication 2005/0161851 A1).

In view of the foregoing, Applicants request reconsideration and withdrawal of the rejections of claims 1-5, 7-13, 16-20, 25, 27, and 53 as being anticipated by Miller.

Claims 1-18 and 21-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dubowik (US Patent No. 4,870,725) in view of Neeb et al. (US Patent Application Publication 2002/0169435). But, Dubowik and Neeb, taken alone and in any proper combination, fail to disclose or make obvious subjecting the lower face of the sheet form base to a first temperature and the upper face of the sheet form base to a second temperature, much less that the second temperature is less than the first temperature, as recited in claims 1-18 and 21-25.

Dubowik discloses a touch fastener system including a bi-stable member 28 of a planar, resiliently flexible material. (See, e.g., Dubowik, col. 3, lines 25-27). According to Dubowik, the bi-stable member can include vacuum-formable plastic. (See, e.g., id., col. 3, lines 28-32; col. 4, lines 9-11). However, Dubowik does not disclose subjecting an upper face of a sheet form base to a first temperature and a lower face of a sheet form base to a second temperature, much less subjecting the upper face to a second temperature less than the first temperature, as recited in claims 1-18 and 21-25.

Neeb discloses a hook-and-loop fastening system including a semi-rigid layer attached to a flexible hook backing to enable bi-stable movement of a hook component. (See, e.g., Neeb, ¶ [0053]). Referring to Neeb's FIG. 19 reproduced below, Neeb's apparatus 90 for molding bi-stable hook tape includes two heated forming rolls 100 and 102. (See, e.g., id., ¶ [0074]). Following the take-off roll 98, Neeb's molded hook tape is passed between the two heated forming rolls 100 and 102. (See, e.g., id., ¶ [0074]). The curvature of the hook tape is either set

while the hook tape is on roll 100 or immediately after leaving roll 100. (See, e.g., id., ¶[0074]-[0075]). Thus, for at least the reasons discussed above with respect to Miller, Neeb's heated forming rolls 100 and 102 cannot properly be considered to be a thermoforming method. Accordingly, Neeb does not cure the deficiencies of Dubowik discussed above.

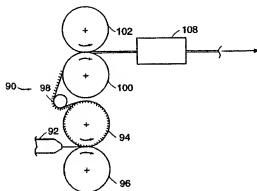


FIG. 19

With respect to the features of claim 5, the Examiner has cited Neeb's FIG. 19 along with Neeb's disclosure of the process of making his bi-stable hook tape. (See, Office Action, p. 6). However, the portions of Neeb cited by the Examiner do not disclose or make obvious a buffer region, much less continuously introducing a sheet form base into such a buffer region. This is not a trivial distinction for at least the reasons discussed above with respect to Miller.

In view of the foregoing, Applicants request reconsideration and withdrawal of the rejection of claims 1-18 and 21-25 as being unpatentable over Dubowik in view of Neeb.

Claims 19 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dubowik in view of Neeb, as applied to claims 1-18 and 21-25, and further in view of Kurfman (US Patent No. 4,115,619). Kurfman has been cited as teaching conventional thermoforming processes wherein the thermoforming temperature can be between the glass transition temperature up to and even above the melting point of a polymer. (See, Office Action, p. 5). However, without conceding that Kurfman discloses such a temperature range, Kurfman has not been shown to cure the deficiencies of Dubowik and Neeb as discussed above. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claims 19 and 20 as being unpatentable over Dubowik in view of Neeb and further in view of Kurfman.

Claim 26 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dubowik in view of Neeb, as applied to claims 1-18 and 21-25, and further in view of Tidemann et al. (US patent No. 5,738,816). Tidemann has been cited as teaching thermoforming material into a framework structure having rectangular apertures. (See, Office Action, p. 8). However, without conceding that Tidemann discloses thermorforming material into such a framework structure, Tidemann has not been shown to cure the deficiencies of Dubowik in view of Neeb discussed above. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claim 26 as being unpatentable over Dubowik in view of Neeb and further in view of Tidemann.

Claim 27 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dubowik in view of Neeb and further in view of Tidemann. Tidemann has been cited as teaching a continuous thermoforming process wherein a continuous substrate of material is continuously formed into a desired shape. (See, Office Action p. 9). However, without conceding that Tidemann discloses such continuous thermoforming process, Tidemann has not been shown to cure the deficiencies of Dubowik in view of Neeb discussed above. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claim 27 as being unpatentable over Dubowik in view of Neeb and further in view of Tidemann.

Claims 50-52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dubowik in view of Neeb as applied to claims 1-18 and 21-25, and further in view of Kenney et al. (US Patent No. 5,725,928). Kenney has been cited as teaching a method of forming a touch fastener that includes magnetic attractants. (See, Office Action, p. 10). However, without conceding that Keeney discloses such a method of forming a touch fastener, Kenney has not been shown to cure the deficiencies of Dubowik and Neeb discussed above. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claims 50-52 as being unpatentable over Dubowik in view of Neeb and further in view of Kenney.

Claim 53 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dubowik in view of Neeb and further in view of Kurfman. Kurfman has been cited as teaching conventional thermoforming processes as discussed above with respect to claims 19 and 20. (See, Office Action, p. 11). However, without conceding that Kurfman discloses such thermoforming processes, Kurfman has not been shown to cure the deficiencies of Dubowik and Neeb discussed

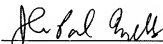
above. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claim 53 as being unpatentable over Dubowik in view of Neeb and further in view of Kurfman.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reason for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to amendment. Applicants respectfully requests consideration of all filed IDS' not previously considered, by initialing and returning each Form 1449.

Applicants request a one-month extension of time. All fees are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 05918-032001.

Respectfully submitted,

Date: September 8, 2008



John Paul Mello
Reg. No. 61,400

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (877) 769-7945